IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 22925 of 2004(D)

PETITIONER:

SANTHA K.K., W/O. I.V. RAJAN,
ILLIPARAMBU HOUSE, ASOKA ROAD, KALOOR P.O.,
KOCHI.

BY ADV. SRI.PAULSON C.VARGHESE

RESPONDENTS:

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1. LABOUR COURT, ERNAKULAM.

2. THE DIRECTOR, LISSIE HOSPITAL,
LISSIE JUNCTION, ERNAKULAM.

R2 BY ADV. SRI.JOLLY JOHN
SRI.A.V.XAVIER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 22925/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE CLAIM STATEMENT FILED BY THE PETITIONER DATED 20.9.94.

EXT.P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 2ND RESPONDENT DT. 20.3.95.

EXT.P3: TRUE COPY OF THE AWARD DATED 21.10.2003 PASSED BY THE FIRST RESPONDENT LABOUR COURT.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.22925 of 2004

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Dated: 16th July, 2007

JUDGMENT

Ext.P3 award passed by the Labour Court, Ernakulam is under challenge in this Writ Petition filed by the workman under Articles 226 and 227 of the Constitution. According to the petitioner, she was working under the 2nd respondent-management, Lissie Hospital, Ernakulam as a Sweeper with effect from 1.3.1987. She claims that her services were continuous and uninterrupted ever since the date of appointment. She alleges that her services were arbitrarily terminated with effect from 1.10.1992 without stating any reason. An industrial dispute was raised and the same was adjudicated as I.D.No.241of 1993 by the first respondent-Labour Court. The Labour Court passed an award, Ext.P3 on 21.10.2003 directing the management to reinstate her but without back wages as a Sweeper on casual basis. Raising various grounds, the petitioner has filed this Writ Petition for a declaration that she is a permanent employee under the second respondent-management and that she is entitled for all benefits which are being given to permanent employees. In short she challenges Ext.P3 to the extent the same does not award her back wages and also the findings in Ext.P3 that she is only a

casual employee.

2. I have heard the submissions of Mr.Paulson C.Varghese, learned counsel for the petitioner and those of Mr.A.V.Xavier, counsel for the 2nd respondent-management.

3. Mr.Paulson C.Varghese would assail Ext.P3 to the extent the same is against the petitioner while Mr.Xavier would justify Ext.P3.

4. Having considered the rival submissions addressed at the Bar, I am of the view that the I.D. should go back to the Labour Court. Accordingly, Ext.P3 is set aside and the Labour Court is directed to take a fresh decision. The following specific questions will be answered by the Labour Court:

1. Whether at the time of dismissal the petitioner was a casual worker?

2. What is the correct amount, if any, payable to the petitioner by way of back wages?

The Labour Court will expedite the matter and will pass fresh award in accordance with law within four months of parties entering appearance pursuant to this order of remand.

The Writ Petition is allowed to above extent. In the circumstances, parties will suffer their respective costs.

srd **PIUS C.KURIAKOSE, JUDGE**